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9 THE HONORABLE RONALD B. LEIGHTON
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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

11 KURT KANAM,

12 Plaintiff,

13 v.

14 ROBERT DOWNS, Fairbanks Superior Court
15 Judge, et al.

16 Defendants.

17 Civil No. 09-5559-RBL

18 ORDER DISMISSING COMPLAINT AND
19 DENYING AS MOOT THE MOTION FOR
20 SUMMARY JUDGMENT

21 Plaintiff filed a Complaint [Dkt. #1] alleging violations of the Indian Child Welfare Act
22 (ICWA), 25 U.S.C. § 1901 *et seq.*, and the Civil Rights Act, 42 U.S.C. § 1981 *et seq.* by
23 Defendants Fairbanks Superior Court Judge Robert Downs, Fairbanks Assistant Attorney Gayle
24 Garrigues, and the Alaska Commission on Judicial Conduct, all in their official capacities.
25 Plaintiff has also made a request to proceed in forma pauperis and has filed a Motion for
26 Summary Judgment. [Dkt. #2]. For the following reasons, Plaintiff's Complaint is DISMISSED
27 for improper venue. Plaintiff's in forma pauperis request and Motion for Summary Judgment
28 [Dkt. #2] are DENIED as MOOT.

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2 ***DISCUSSION***
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4 **A. Background**
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6 According to the Complaint, Plaintiff is one of several appointed “Indian Custodians” for
7 two minors¹ whom are members of the Healy Lake Tribe in Alaska. Pursuant to 25 U.S.C. §
8 1911(c), Plaintiff asserts a right to intervene in the minors’ state custody proceedings before the
9 Fairbanks Superior Court. Plaintiff argues that the Defendants are obligated to place the minors
10 with their Indian Custodian under 25 U.S.C. § 1920 and § 1922. Plaintiff asserts that the
11 Defendants’ failure to place the minors with their Indian Custodian violates ICWA and 42
12 U.S.C. § 1983, §1985, and §1986 of the Civil Rights Act. Plaintiff asks that the Court order the
13 Defendants to place the two minors with one of their Indian Custodians. Plaintiff also requests
14 that the Court order the Defendants to pay Plaintiff \$1,000 per day for each day Defendants
15 violate the provisions of ICWA.

16 **B. Venue is Improper**
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18 The Court does not address the alleged violations of ICWA and the Civil Rights Act
19 because this Court is not the proper venue for Plaintiff’s claims. Under 28 U.S.C. §1391(b),
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21 [**a**] civil action wherein jurisdiction is not founded solely on diversity of
22 citizenship may, except as otherwise provided by law, be brought only in
23 (1) a judicial district where any defendant resides, if all defendants reside
in the same State, (2) a judicial district in which a substantial part of the
events or omissions giving rise to the claim occurred, or a substantial part
of property that is the subject of the action is situated, or (3) a judicial district
in which any defendant may be found, if there is no district in which the
action may otherwise be brought. 28 U.S.C. §1391(b).

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¹ The minor children named by Plaintiff are “S.P.F. Y.O.B. 2000 & V.M.F. Y.O.B. 2002.”

Plaintiff's Complaint does not indicate that any of the Defendants reside or can be found in the State of Washington. Nor does the Complaint allege that any of the events giving rise to Plaintiff's claim occurred here.²

Pursuant to 28 U.S.C. § 1406(a), a “district court of a district in which [a case is filed] laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). Plaintiff’s Complaint is thus dismissed pursuant to 28 U.S.C. § 1406(a) for improper venue.

CONCLUSION

Plaintiff's Complaint [Dkt. #1] is DISMISSED for improper venue. Plaintiff's in forma pauperis request and Motion for Summary Judgment [Dkt. #2] are DENIED as MOOT.

IT IS SO ORDERED.

Dated this 21st day of September 2009.

**RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE**

² It is also not clear that the Court has jurisdiction over the claims or the Defendants.